

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 GREG W. CHAMBERS  
Deputy Attorney General  
4 State Bar No. 237509  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3382  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Second Amended  
Accusation Against,

13 **SUSAN ANN PEREIRA, M.D.**  
14 **247 Hummingbird Way**  
**American Canyon, CA 94503**

15 **Physician's and Surgeon's Certificate No. A**  
16 **70499**

17 Respondent.

Case No. 800-2017-032806

OAH No. 2019050913

**DEFAULT DECISION**  
**AND ORDER**

[Gov. Code, §11520]

18  
19 **FINDINGS OF FACT**

20 1. On or about June 25, 2018, Complainant Kimberly Kirchmeyer, in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs, filed Accusation No. 800-2017-032806 against Susan Ann Pereira, M.D. (Respondent)  
23 before the Medical Board of California.

24 2. On or about December 10, 1999, the Medical Board of California (Board) issued  
25 Physician's and Surgeon's Certificate No. A 70499 to Respondent. The Physician's and Surgeon's  
26  
27  
28

1 Certificate was in full force and effect at all times relevant to the charges brought herein and  
2 expired on August 31, 2019. (Exhibit Package, Exhibit 1, License Certification.)<sup>1</sup>

3 3. On or about June 25, 2018, Robyn Fitzwater, an employee of the Medical Board of  
4 California, served by Certified Mail a copy of the Accusation No. 800-2017-032806, Statement to  
5 Respondent, Notice of Defense, and Request for Discovery to Respondent's address of record  
6 with the Board, which was and is 247 Hummingbird Way, American Canyon, CA 94503.  
7 (Exhibit Package, Exhibit 2, Accusation Package, Declaration of Service.)

8 4. On or about July 9, 2018, Respondent signed and returned a Notice of Defense,  
9 requesting a hearing in this matter. (Exhibit Package, Exhibit 3, Notice of Defense.)

10 5. On or about December 11, 2018, First Amended Accusation No. 800-2017-032806  
11 was filed and served on Respondent by Certified Mail, and First Class Mail.

12 6. On May 22, 2019, a Notice of Hearing was served by Certified Mail at Respondent's  
13 address of record, which was the same address listed on the Notice of Defense. The Notice of  
14 Hearing informed Respondent that an administrative hearing in this matter was scheduled for  
15 August 29, 2019. The Notice of Hearing was also sent to Respondent via email to the same email  
16 address listed on Respondent's Notice of Defense. (Exhibit Package, Exhibit 4, Notice of  
17 Hearing, Declaration of Service, and email confirmation.)

18 7. On July 16, 2019, Patricia Angeja, an employee of the Medical Board of California,  
19 served by Certified Mail a copy of the Second Amended Accusation No. 800-2017-032806,  
20 Supplemental Statement to Respondent, and Supplemental Request for Discovery to Respondent's  
21 address of record with the Board, which was and is 247 Hummingbird Way, American Canyon,  
22 CA 94503. (Exhibit Package, Exhibit 5, Second Amended Accusation Package, Declaration of  
23 Service.)

24 8. On July 18, 2019, the Notice of Hearing sent by Certified Mail to Respondent's  
25 address of record, 247 Hummingbird Way, American Canyon, CA 94503, was returned to the  
26 Attorney General's Office as "unclaimed," and "Return to Sender, Not Deliverable as Addressed,"  
27

---

28 <sup>1</sup> The evidence in support of this Default Decision and Order is submitted herewith as the  
"Exhibit Package."

1 Unable to Forward.” (Exhibit Package, Exhibit 6, Copy of Returned Envelope of Notice of  
2 Hearing.)

3 9. On August 29, 2019, Respondent failed to appear at that hearing. (Exhibit Package,  
4 Exhibit 7, Finding and Declaration of Default; Order of Remand.)

5 STATUTORY AUTHORITY

6 10. Service of the Accusation was effective as a matter of law under the provisions of  
7 Government Code section 11505, subdivision (c).

8 11. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
11 of the accusation not expressly admitted. Failure to file a notice of defense shall  
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
13 may nevertheless grant a hearing.

12 12. California Government Code section 11520 states, in pertinent part:

13 (a) If the respondent either fails to file a notice of defense or to appear at the  
14 hearing, the agency may take action based upon the respondent's express admissions  
15 or upon other evidence and affidavits may be used as evidence without any notice to  
16 respondent.

15 13. Pursuant to its authority under Government Code section 11520, the Board finds  
16 Respondent is in default. The Board will take action without further hearing and, based on  
17 Respondent's express admissions by way of default and the evidence before it, contained in  
18 **Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11**, finds that the allegations in Second Amended  
19 Accusation No. 800-2017-032806 are true.

20 DETERMINATION OF ISSUES

21 1. Based on the foregoing findings of fact, Respondent Susan Ann Pereira, M.D. has  
22 subjected her Physician's and Surgeon's Certificate No. A 70499 to discipline.

23 2. A copy of the Second Amended Accusation and the related documents and  
24 Declaration of Service are attached.

25 3. The agency has jurisdiction to adjudicate this case by default.

26 4. Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on  
28

1 Respondent's express admissions by way of default and the evidence before it, contained in the  
2 Exhibit Package, finds that the following allegations in Second Amended Accusation No. 800-  
3 2017-032806 are true:

4           A.    On or about May 1, 2017, at approximately 5:12 p.m., in American Canyon,  
5 California, Respondent was contacted by law enforcement after a witness observed Respondent,  
6 driving a Cadillac Escalade, run three (3) vehicles off of the roadway on SR-29. Respondent  
7 claimed to have consumed two (2) glasses of wine earlier that day, between 1:30 p.m. and 2:00  
8 p.m.

9           B.    Respondent provided preliminary alcohol screening tests that registered .183%  
10 and .191 % BAC at 5:38 p.m. and 5:40 p.m., respectively. On or about May 1, 2017, breath tests  
11 of Respondent were conducted at 7:07 p.m. and 7:10 p.m. The results of the breath tests were  
12 .17% and .16% BAC, respectively. (Exhibit Package, Exhibit 8, Certified Copy of American  
13 Canyon Police Report, NSD17-001779.)

14           C.    On November 28, 2017, in a criminal proceeding entitled *The People of the*  
15 *State of California v Susan Ann Pereira*, in the Napa County Superior Court, Case Number CR-  
16 183886, Respondent pleaded "no contest" to violating California Vehicle Code section 23152(b),  
17 and admitted to the enhancement of driving with a BAC in excess of 0.15%, pursuant to  
18 California Vehicle Code section 23578. (Exhibit Package, Exhibit 9, Certified Copy of Criminal  
19 Conviction, Case Number CR-183886.)

20           D.    On or about August 7, 2018, at approximately 4:24 p.m., in American Canyon,  
21 California, Respondent was contacted by law enforcement at a gas station parking lot.  
22 Respondent, who had been driving with an 11-year old minor in the car, was noted to have red  
23 watery eyes, a strong odor of an alcoholic beverage emanating from her breath, an unsteady gait  
24 and thick, slurred speech. Respondent claimed that she had not consumed any alcohol that day.

25           E.    Respondent provided preliminary alcohol screening tests that registered .190%  
26 and .198 % BAC at 4:47 p.m. and 4:49 p.m., respectively. Subsequently, Respondent was  
27 arrested for driving under the influence of alcohol and a blood sample was drawn from  
28

1 Respondent's arm. (Exhibit Package, Exhibit 10, Certified Copy of California Highway Patrol  
2 Report M201800426.)

3 F. On May 29, 2019, in a criminal proceeding entitled *The People of the State of*  
4 *California v Susan Ann Pereira*, in the Napa County Superior Court, Case Number 18CR003030,  
5 Respondent was convicted after pleading "No Contest" to violating the following: California  
6 Vehicle Code section 23152(b), "driving while having a 0.08% or higher blood alcohol"; Vehicle  
7 Code section 14601.5(A), driving on a suspended license; Vehicle Code section 23154(a), driving  
8 with a BAC greater than 0.01 % while on probation; and Penal Code section 273A(b), child  
9 endangerment. Additionally, Respondent admitted to the enhancement of violating Vehicle Code  
10 section 23578, driving with a BAC of .15% or greater. (Exhibit Package, Exhibit 11, Certified  
11 Copy of Criminal Conviction, Case Number 18CR003030.)

12 5. Pursuant to the foregoing Findings of Fact, Respondent's conduct constitutes cause  
13 for discipline within the meaning of Business and Professions Code sections 2234 (unprofessional  
14 conduct), 2236 and California Code of Regulations, title 16, section 1360 (criminal conviction),  
15 and 2239 (dangerous use of alcohol).

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


1 **ORDER**

2 IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 70499, heretofore  
3 issued to Respondent Susan Ann Pereira, M.D., is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
5 written motion requesting that the Decision be vacated and stating the grounds relied on within  
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on October 16, 2019 at 5:00 p.m.

9  
10 It is so ORDERED September 16, 2019

11  
12   
13 KIMBERLY KIRCHMEYER  
14 EXECUTIVE DIRECTOR  
15 FOR THE MEDICAL BOARD OF  
16 CALIFORNIA  
17 DEPARTMENT OF CONSUMER AFFAIRS  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

XAVIER BECERRA  
Attorney General of California  
MARY CAIN-SIMON  
Supervising Deputy Attorney General  
GREG W. CHAMBERS  
Deputy Attorney General  
State Bar No. 237509  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 510-3382  
Facsimile: (415) 703-5480  
*Attorneys for Complainant*

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Second Amended  
Accusation Against:

**Susan Ann Pereira, M.D.**  
**247 Hummingbird Way**  
**American Canyon, CA 94503**

**Physician's and Surgeon's Certificate**  
**No. A 70499,**

Respondent.

Case No. 800-2017-032806

**SECOND AMENDED ACCUSATION**

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Second Amended Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about December 10, 1999, the Medical Board issued Physician's and Surgeon's Certificate Number A 70499 to Susan Ann Pereira, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

## JURISDICTION

3. This Second Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code **unless** otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states in part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter."

6. Section 2236 of the Code states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"... (d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

7. Section 2239 of the Code states:

"(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use,

1 consumption, or self-administration of any of the substances referred to in this section, or any  
2 combination thereof, constitutes unprofessional conduct. The record of the conviction is  
3 conclusive evidence of such unprofessional conduct.

4 “(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is  
5 deemed to be a conviction within the meaning of this section. The Medical Board may order  
6 discipline of the licensee in accordance with Section 2227 or the Medical Board may order the  
7 denial of the license when the time for appeal has elapsed or the judgment of conviction has been  
8 affirmed on appeal or when an order granting probation is made suspending imposition of  
9 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal  
10 Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty,  
11 or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or  
12 indictment.”

13 8. California Code of Regulations, title 16, section 1360, states:

14 “For the purposes of denial, suspension or revocation of a license, certificate or permit  
15 pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be  
16 considered to be substantially related to the qualifications, functions or duties of a person holding  
17 a license, certificate or permit under the Medical Practice Act if to a substantial degree it  
18 evidences present or potential unfitness of a person holding a license, certificate or permit to  
19 perform the functions authorized by the license, certificate or permit in a manner consistent with  
20 the public health, safety or welfare. Such crimes or acts shall include but not be limited to the  
21 following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
22 violation of, or conspiring to violate any provision of the Medical Practice Act.”

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct - Criminal Conviction/Dangerous Use of Alcohol)**

25 9. Respondent is subject to disciplinary action under section 2234 (unprofessional  
26 conduct), and/or section 2236 and California Code of Regulations, title 16, section 1360 (criminal  
27 conviction), and/or section 2239 (dangerous use of alcohol), in that on or about November 28,  
28 2017, in a criminal proceeding entitled *The People of the State of California v Susan Ann Pereira*,

1 in the Napa County Superior Court, Case Number CR-183886, Respondent was convicted after  
2 admitting to violating California Vehicle Code section 23252(b), "driving while having a 0.08%  
3 or higher blood alcohol." Respondent also admitted to the enhancement of driving with a blood  
4 alcohol content ("BAC") of greater than 0.15%. The circumstances are as follows:

5 a. On or about May 1, 2017, at approximately 5:12 p.m., in American Canyon,  
6 California, Respondent was contacted by law enforcement after a witness observed Respondent,  
7 driving a Cadillac Escalade, run three (3) vehicles off of the roadway on SR-29. Respondent  
8 claimed to have consumed two (2) glasses of wine earlier that day, between 1:30 p.m. and 2:00  
9 p.m.

10 b. Respondent provided preliminary alcohol screening tests that registered .183% and  
11 .191 % BAC at 5:38 p.m. and 5:40 p.m., respectively. On or about May 1, 2017, breath tests of  
12 Respondent were conducted at 7:07 p.m. and 7:10 p.m. The results of the breath tests were .17%  
13 and .16% BAC, respectively. Subsequently, Respondent was arrested for driving under the  
14 influence of alcohol.

15 c. Respondent was charged by the Napa County District Attorney's Office with  
16 violating California Vehicle Code sections 23152(a), driving under the influence, and 23152(b),  
17 driving with a BAC in excess of 0.08%. Additionally, Respondent was charged with the  
18 enhancement of driving with a BAC in excess of 0.15%, pursuant to California Vehicle Code  
19 section 23578.

20 d. On or about November 28, 2017, Respondent pleaded "no contest" to violating  
21 California Vehicle Code section 23152(b), and admitted to the enhancement of driving with a  
22 BAC in excess of 0.15%, pursuant to California Vehicle Code section 23578. Respondent was  
23 sentenced by the court to five (5) days in custody with credit for one (1) day served, and the  
24 remainder to be completed through the Sheriff's Weekend Alternative Program; three (3) years  
25 probation; forty (40) hours community service; a fine of \$1,723.00; a restitution fine of \$150; and  
26 a six (6) month DUI program.

27 10. Respondent engaged in unprofessional conduct, pursuant to section 2234 of the Code,  
28 by virtue of the fact that Respondent drove a vehicle while under the influence of an excessive

1 amount of alcohol in a manner dangerous to Respondent and others in violation of section 2239  
2 of the Code.

3 11. Respondent's criminal conviction for "driving while having a 0.08% or higher blood  
4 alcohol," and for the enhancement of driving with a BAC of greater than 0.15% is substantially  
5 related to the qualifications, functions and duties of a physician and surgeon, and constitutes  
6 unprofessional conduct and cause for discipline pursuant to sections 2234 and 2236 of the Code,  
7 and title 16, section 1360 of the California Code of Regulations.

#### 8 **SECOND CAUSE FOR DISCIPLINE**

##### 9 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

10 12. Respondent is subject to disciplinary action under section 2234 (unprofessional  
11 conduct), and/or section 2239 (dangerous use of alcohol). The circumstances are as follows:

12 a. On or about August 7, 2018, at approximately 4:24 p.m., in American Canyon,  
13 California, Respondent was contacted by law enforcement at a gas station parking lot.

14 Respondent, who had been driving with an 11-year old minor in the car, was noted to have red  
15 watery eyes, a strong odor of an alcoholic beverage emanating from her breath, an unsteady gait  
16 and thick, slurred speech. Respondent claimed that she had not consumed any alcohol that day.

17 b. Respondent provided preliminary alcohol screening tests that registered .190%  
18 and .198 % BAC at 4:47 p.m. and 4:49 p.m., respectively. Subsequently, Respondent was  
19 arrested for driving under the influence of alcohol and a blood sample was drawn from  
20 Respondent's arm.

#### 21 **THIRD CAUSE FOR DISCIPLINE**

##### 22 **(Unprofessional Conduct – Criminal Conviction)**

23 13. Respondent is subject to disciplinary action under section 2234 (unprofessional  
24 conduct) of the Code, and/or section 2236 (criminal conviction) of the Code, and/or California  
25 Code of Regulations, title 16, section 1360 (criminal conviction), in that on May 29, 2019, in a  
26 criminal proceeding entitled *The People of the State of California v Susan Ann Pereira*, in the  
27 Napa County Superior Court, Case Number 18CR003030, Respondent was convicted after  
28 pleading "No Contest" to violating the following: California Vehicle Code section 23152(b),

1 “driving while having a 0.08% or higher blood alcohol”; Vehicle Code section 14601.5(A),  
2 driving on a suspended license; Vehicle Code section 23154(a), driving with a BAC greater than  
3 0.01 % while on probation; and Penal Code section 273A(b), child endangerment. Additionally,  
4 Respondent admitted to the enhancement of violating Vehicle Code section 23578, driving with a  
5 BAC of .15% or greater.

6 14. Respondent’s criminal conviction for “driving while having a 0.08% or higher blood  
7 alcohol,” and for the enhancement of driving with a BAC of greater than 0.15% is substantially  
8 related to the qualifications, functions and duties of a physician and surgeon, and constitutes  
9 unprofessional conduct and cause for discipline pursuant to sections 2234 and 2236 of the Code,  
10 and title 16, section 1360 of the California Code of Regulations.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Medical Board of California issue a decision:

- 14 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 70499,  
15 issued to Susan Ann Pereira, M.D.;
- 16 2. Revoking, suspending or denying approval of Susan Ann Pereira, M.D.'s authority to  
17 supervise physician assistants and advanced practice nurses;
- 18 3. Ordering Susan Ann Pereira, M.D., if placed on probation, to pay the Board the costs  
19 of probation monitoring; and
- 20 4. Taking such other and further action as deemed necessary and proper.

21  
22 DATED: July 16, 2019

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant